

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ERIC KIPSANG ATUGAH,

Petitioner,

Case No. 2:16-CV-68

v.

HON. GORDON J. QUIST

MIRASH DEDVUKAJ, Field
Director, Detroit, ICE,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On May 10, 2016, Magistrate Judge Timothy P. Greeley issued a Report and Recommendation (R & R) in which he recommended that the Court deny Petitioner's habeas application, as well as Petitioner's motions to enjoin the Attorney General and stay deportation. The R & R stated that objections had to be served within 14 days pursuant to 28 U.S.C. § 636(b)(1)(c). More than 14 days has passed since the R & R was served and Petitioner has not filed an objection. Although Petitioner has filed a "motion opposing Respondent's brief in reply to rebuttal" (ECF No. 20) and a "motion reserving the right to appeal" (ECF No. 23), neither of those documents identifies any portion of the R & R to which objection is made or could be construed as an objection to the R & R. Thus, the Court will adopt the R & R.

Under 28 U.S.C. § 2253(c)(2), the Court must also determine whether a certificate of appealability should be granted. A certificate should issue if a petitioner has demonstrated "a substantial showing of a denial of a constitutional right." *Id.* The Sixth Circuit has disapproved issuance of blanket denials of a certificate of appealability. *Murphy v. Ohio*, 263 F.3d 466, 467 (6th Cir. 2001). Rather, the district court must "engage in a reasoned assessment of each claim" to

determine whether a certificate is warranted. *Id.* at 467. Each issue must be considered under the standards set forth by the Supreme Court in *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595 (2000). *Id.* Under *Slack*, 529 U.S. at 484, 120 S. Ct. at 1604, to warrant a grant of the certificate, “[t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” For the reasons stated in the R & R, the Court finds that reasonable jurists could not find that this Court’s dismissal of Petitioner’s claims was debatable or wrong. Thus, the Court will deny Petitioner a certificate of appealability.

Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation issued May 10, 2016 (ECF No. 18) is **ADOPTED** as the Opinion of the Court, and Petitioner’s habeas petition (ECF No. 1) is **DENIED without prejudice**.

IT IS FURTHER ORDERED that Petitioner’s Motion to Stay Deportation is (ECF No. 11) is **DENIED without prejudice**.

IT IS FURTHER ORDERED that Petitioner’s Motion to Enjoin the Attorney General (ECF No. 10) is **DENIED without prejudice**

This case is concluded.

A separate judgment will issue.

Dated: June 7, 2016

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE